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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/096,395	06/11/1998	TOSHIYUKI TOYOFUKU	P/16-161	1760

7590 12/23/2002  
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NEW YORK, NY 100368403

EXAMINER

VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 12/23/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/096,395

Applicant(s)

TOYOFUKU ET AL.

Examiner

John M. Villecco

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 13-18, 20 and 22-28.

Claim(s) withdrawn from consideration: 12 and 21.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

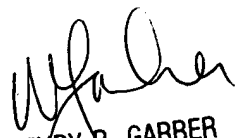
Continuation of 5. does NOT place the application in condition for allowance because:

Applicant argues that the prior art fails to specifically teach a panoramic camera. However, it is submitted that both Okauchi and Moghadam disclose a panoramic camera. Okauchi discloses a "divisional image pickup mode" which calculates a number of images and takes a plurality of images to be combined into one image.. Moghadam specifically discloses in the title that the camera is a panoramic camera.

Additionally, applicant argues that the examiner used impermissible hindsight when constructing the rejection. 1. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, applicant argues that Fujimori only generates a warning when there is insufficient space to record an image. However, Fujimori also discloses in column 8, lines 43-57, that an estimated number (N) is derived which represents the number of images that the memory can hold. The user is informed of this number (N) so that "the user can make a plan for subsequent photography". This statement shows that Fujimori is concerned with the amount of images that the remaining memory can hold. By "informing" the user, a warning is generated. Therefore, when used in combination with Okauchi, which allows a user to select a number of images for constructing a panoramic image, or Moghadam, it would have been obvious to one of ordinary skill in the art at the time the invention was made to compare the number of intended images of Okauchi with the remaining memory to determine if there is enough capacity to store the images.

In addition to the above argument, one can easily draw a parallel to the the fact that Fujimori only is concerned with a single image. A panoramic image is generally an associated set of images that are quickly photographed and eventually combined to form a bigger image. It would be obvious to store a set of panoramic images in the same manner as Fujimori while generating a warning on an intervening image which will not fit on the remaining memory. It would have been obvious to generate a warning before the panoramic image is even photographed so that a user has enough memory available to complete the photographing of the panoramic image.

  
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